IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.183 OF 2006
IN
WRIT PETITION NO.3081 OF 2006

Mrs.Sultana Akhlaq Qureshi ...Appellant.

Vs.

Dr.Adam Farooq Ahmed
and Anr. ...Respondents.

Mr.P.S.Dani with Mr.S.R.Nargolkar,for the Appellant.

Mr.Harinder Toor with A.T.Uniyal & R.M.Vanoo for Respondents.

CORAM : SMT.RANJANA DESAI AND SMT.V.K.TAHILRAMANI,JJ.

DATED : 22ND AUGUST, 2006.

P.C.:-

1. In this letters patent appeal, the order dated 11th August, 2006 passed by learned single judge in writ petition 3081 of 2006, is under challenge.

2. The appellant executed a leave and licence agreement with the respondents. The agreement is dated 11.7.2004. It was for a period of 11 months. The licence period commenced from 13.7.2004 and ended on 12.6.2005. The agreed compensation was Rs.7,000/-. On expiry of the agreement, the

appellant did not vacate the premises and hence the respondents initiated proceedings before the competent authority for eviction under the provisions of the Maharashtra Rent Control Act. The appellant applied for leave to defend on the ground that agreement for leave and licence was extended by another two years by oral agreement. The Competent Authority, Konkan Division, Mumbai held that the respondents had proved that they are the licensors and that the licence period had expired and hence they were entitled to be put in possession of the suit flat. Revision carried from this order was rejected. Being aggrieved by the said order, instant writ petition came to be filed.

3. The learned single judge, in our opinion, rightly dismissed the said petition. He concurred with the view taken by the Competent Authority and Additional Commissioner, Konkan Division, Mumbai.

4. We have heard Mr.Dani the learned counsel for the appellant. Mr.Dani made two fold submissions. Mr.Dani contended that application for leave to defend filed by the appellant was rejected on 28.11.2005; and on the same day main application was

decided. The learned counsel contended that appellant had no time to challenge the order refusing leave to defend; and that the appellant was not even given chance to cross-examine the respondents. We find no substance in these submissions. It is well settled that the proceedings under Chapter VIII of the Rent Control Act are summary proceedings. Besides, the oral agreement is not proved by the appellant. Written agreement of leave and licence is conclusive evidence of the facts stated therein. In our opinion, therefore, no case is made out for interference.

5. There is one more reason why this Letters Patent Appeal should not be entertained. The learned single judge has passed the following order on 2nd May, 2006 :

> . "In the meantime, ad-interim relief is granted in terms of prayer clause (c) on condition that the amount of arrears of compensation for the period of September, 2004 to June, 2005 at the rate of Rs.7000/- p.m. to be deposited in the Court within six weeks from the date of this order and further the petitioner shall continue to deposit the monthly compensation amount at the same rate till further orders."

. Admittedly, the appellant has not fully

complied with order of this court. In the circumstances, the appeal is rejected.

6. Office is directed to permit the respondents to withdraw the amount which is deposited by the appellant in this court pursuant to order dated 2nd May, 2006. The appellant shall also deposit compensation and damage as per the order of the competent authority in this Court within six weeks from today. Needless to say that on such deposit being made the respondents will be entitled to withdraw the same.

7. At this stage, Mr.Dani learned counsel for the appellant states that some time may be given to appellant to vacate the suit premises. In the circumstances of the case, the appellant is given two months time to vacate the suit premises on the appellant and every adult member of his family filing the usual undertaking in this court and complying with the order passed by the competent authority dated 28.11.2005. Undertaking to be filed within two weeks from today.

[SMT.RANJANA DESAI,J.]

[SMT.V.K.TAHILRAMANI,J.]